COUNCIL ITEM 10F
DATE 10/8/12

ORDINANCE 12 -65

AN ORDINANCE AUTHORIZING THE CONVEYANCE OF A NON-EXCLUSIVE DRAINAGE EASEMENT FROM THE CITY OF PORT ST. LUCIE TO TRADITION COMMUNITY DEVELOPMENT DISTRICT NO. 1, A LOCAL UNIT OF SPECIAL PURPOSE GOVERNMENT ORGANIZED AND EXISTING IN ACCORDANCE WITH CHAPTER 190, FLORIDA STATUTES; PROVIDING AN EFFECTIVE DATE.

THE CITY OF PORT ST. LUCIE HEREBY ORDAINS:

Section 1. That there is hereby authorized the conveyance of a non-exclusive drainage easement ("Easement") from the City of Port St. Lucie to Tradition Community Development District No. 1, formerly known as Westchester Community Development District No. 1, a local unit of special purpose government organized and existing in accordance with Chapter 190, Florida Statutes ("Tradition CDD No. 1"), which shall serve to allow Tradition CDD No. 1 to construct, operate, maintain, repair, reconstruct, and perform other activities as may be necessary for the conveyance of stormwater and other drainage purposes. The purpose of the Easement is to assure that an unobstructed flow of stormwater is managed and controlled by Tradition CDD No. 1 for the planned community known as "Tradition." The non-exclusive Easement to be conveyed to Tradition CDD No. 1 is more particularly described in the proposed Easement, attached hereto as Exhibit "A," and said Easement is authorized and approved in substantially the same form attached hereto. The Mayor and city officials are hereby authorized to execute any and all documents necessary to complete the conveyance.

Section 2. That this Ordinance shall become effective ten (10) days after its final adoption.

PASSED AND APPROVED by the City Council of the City of Port St. Lucie, this ____ day of _____, 2012.

CITY COUNCIL
CITY OF PORT ST. LUCIE

ATTEST:

_____
Karen A. Phillips, City Clerk

BY:_____
JoAnn M. Faiella, Mayor

APPROVED AS TO FORM

BY:_____
Roger G. Orr, City Attorney

EXHIBIT
"A"
to City's Ordinance
- 7 pgs

This instrument prepared by (and return to):
Daniel B. Harrell
Gonano & Harrell
1600 S. Federal Highway, Suite 200
Fort Pierce, FL 34950-5194
(772) 464-1032 Ext. 1010 (Voice)
(772) 464-0282 (Facsimile)

DRAINAGE EASEMENT

THIS INDENTURE is made and given this ___ day of _____, 2012, by the CITY OF PORT ST. LUCIE, a Florida municipal corporation, 121 S.W. Port St. Lucie Blvd., Port St. Lucie, Florida 34984 ("Grantor") to the TRADITION COMMUNITY DEVELOPMENT DISTRICT NO. 1, formerly known as Westchester Community Development District No. 1, a local unit of special purpose government organized and existing in accordance with Chapter 190, Florida Statutes, 10521 S.W. Village Center Drive, Suite 201, Port St. Lucie, Florida 34987 ("Grantee"), acting in accordance with the Amended and Restated District Development Interlocal Agreement dated as of April 8, 2008, and recorded in Official Records Book 2983, Pages 1074-1124, of the Public Records of St. Lucie County, Florida ("District Interlocal Agreement"), for itself and under delegated authority from each of the Other Districts (as defined in the District Interlocal Agreement).

WITNESSETH

WHEREAS, the Grantor is the owner of that certain portion of the proposed Fairgreen Road that is described in the attached Exhibit A ("Easement Area"); and

WHEREAS, the Grantee is responsible for planning, constructing, operating, and maintaining that certain system of surface and subsurface structures and improvements serving the planned community known as "Tradition" and designed, installed, and maintained for the purpose of managing and controlling water discharges necessitated by rainfall events ("Tradition Stormwater System"); and

WHEREAS, the design of the Tradition Stormwater System provides that stormwater runoff from portions of the System flow through or across the Easement Area; and

WHEREAS, in order to assure the unobstructed flow through the Easement Area of stormwater runoff from portions of the Tradition Stormwater System, the Grantor should grant to the Grantee an easement authorizing the Grantee to operate, maintain, construct, and reconstruct drainage facilities within the Easement Area.

NOW, THEREFORE, for and in consideration of Ten Dollars ($10.00) and other good and valuable consideration, the receipt, adequacy, and sufficiency of which are hereby acknowledged, the

Grantor hereby grants, bargains, and conveys to the Grantee, its licensees, agents, successors, and assigns, a perpetual non-exclusive easement along, over, and across the Easement Area for the purposes of (a) authorizing, but not requiring, the Grantee to operate, maintain, construct, and reconstruct drainage facilities within the Easement Area as a segment of the Tradition Stormwater System, and (b) providing for the unobstructed flow through the Easement Area of stormwater runoff from portions of the Tradition Stormwater System, provided, however, that the Grantor reserves the right to plan, construct, operate, and maintain within the Easement Area a portion of Fairgreen Road.

TO HAVE AND TO HOLD the easement hereby granted unto the Grantee, its licensees, agents, legal representatives, successors, and assigns, as an easement running with the land and an appurtenance to the balance of the Tradition Stormwater System.

IT IS UNDERSTOOD that this easement is given upon the express understanding and condition that such easement may be used by the Grantor, its licensees, agents, successors, assigns, tenants, servants, and visitors (a) in conjunction with the use by the Grantee and its licensees, agents, successors, assigns, tenants, servants, and visitors, and (b) for the purpose of constructing, operating, and maintaining a portion of Fairgreen Road.

IT IS FURTHER UNDERSTOOD that by entering upon or occupying the Easement Area for the purposes stated in this easement, the Grantee, for itself and its successors and assigns, (a) accepts all conditions and limitations set forth herein, and (b) to the extent permitted by law, agrees to indemnify and save the Grantor harmless from any and all damages, injuries, losses, claims, demands, or costs proximately caused by the sole fault of the Grantee in the construction, reconstruction, maintenance, improvement, addition to, enlargement of, change, or removal of all drainage facilities.

IT IS FURTHER UNDERSTOOD that the Grantor and its licensees, agents, successors, or assigns, assumes no liability or responsibility to the Grantee, its licensees, agents, successors, or assigns, or to any person using the easement with or without invitation, whether express or implied, or by reason of any business conducted with the Grantee, its licensees, agents, successors, or assigns, or otherwise.

* * *

IN WITNESS WHEREOF, the Grantor has caused this instrument to be executed in its name, and its seal to be hereunto affixed by its duly authorized officers, on the day and year first above written.

Attest: **CITY OF PORT ST. LUCIE**

_____ By:_____

Karen A. Phillips, City Clerk JoAnn M. Faiella, Mayor

STATE OF FLORIDA
COUNTY OF ST. LUCIE

BEFORE ME, the undersigned authority, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared JoAnn M. Faiella and Karen A. Phillips, as Mayor and City Clerk, respectively, of the City of Port St. Lucie, Florida, and they acknowledged before me that they executed the foregoing instrument for the purpose therein contained. They G are personally known to me or G presented _____ for identification.

WITNESS my hand and seal in the County and State last aforesaid, this _____ day of _____, 2012

[Notary Seal]

_____
Print Name:_____
Notary Public-State of Florida
My Commission Expires:_____

* * *

ACCEPTANCE OF DRAINAGE EASEMENT

THE ABOVE DRAINAGE EASEMENT is hereby accepted this ___ day of _____, 2012.

Signed, sealed, and declared
in the presence of:

TRADITION COMMUNITY DEVELOPMENT DISTRICT NO. 1

_____
Print Name: _____
Title: _____

By: _____
James H. Anderson, Chairman
Board of Supervisors

STATE OF FLORIDA
COUNTY OF ST. LUCIE

BEFORE ME, the undersigned authority, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared James H. Anderson, Chairman of the Board of Supervisors of the Tradition Community Development District No. 1, and he acknowledged before me that he executed the foregoing instrument for the purpose therein contained. He G is personally known to me or G presented _____ for identification.

WITNESS my hand and seal in the County and State last aforesaid, this _____ day of _____, 2012

[Notary Seal]

_____
Print Name:_____
Notary Public-State of Florida
My Commission Expires:_____

* * *

EXHIBIT A

Legal description of Easement Area

EXHIBIT "A"

LEGAL DESCRIPTION: DRAINAGE EASEMENT

A PORTION OF SECTION 4, TOWNSHIP 37 SOUTH, RANGE 39 EAST, LYING WITHIN ST. LUCIE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SAID SECTION 4; THENCE ALONG THE EAST LINE OF SAID SECTION, SOUTH 00°35'12" WEST, A DISTANCE OF 791.07 FEET TO THE POINT OF BEGINNING OF HEREIN DESCRIBED PARCEL OF LAND; THENCE CONTINUE SOUTH 00°35'12" WEST, ALONG SAID EAST LINE, A DISTANCE OF 320.28 FEET; THENCE NORTH 04°07'17" WEST, A DISTANCE OF 55.39 FEET; THENCE NORTH 44°26'54" WEST, A DISTANCE OF 28.91 FEET; THENCE NORTH 89°27'28" WEST, A DISTANCE OF 75.00 FEET; THENCE NORTH 00°35'12" EAST, A DISTANCE OF 100.00 FEET TO A POINT ON THE SOUTH LINE OF TRADITION PLAT NO. 32, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 62, PAGES 5 THROUGH 9 OF THE PUBLIC RECORDS OF ST. LUCIE COUNTY, FLORIDA; THENCE ALONG SAID SOUTH LINE THROUGH THE FOLLOWING TWO (2) COURSES, SOUTH 89°27'28" EAST, A DISTANCE OF 75.18 FEET; THENCE NORTH 45°21'31" EAST, A DISTANCE OF 25.70 FEET; THENCE NORTH 03°37'48" EAST, A DISTANCE OF 126.58 FEET TO THE POINT OF BEGINNING.

CONTAINING 0.2557 ACRES, MORE OR LESS.

SUBJECT TO EASEMENTS, RESTRICTIONS AND RIGHTS-OF-WAY OF RECORD.

BEARINGS SHOWN HEREON ARE BASED ON THE EAST LINE OF SAID SECTION 4, TOWNSHIP 37 SOUTH, RANGE 39 EAST, SAID LINE BEARING SOUTH 00°35'12" WEST AND ALL OTHER BEARINGS BEING RELATIVE THERETO.

CERTIFICATION:

THIS SKETCH AND DESCRIPTION ARE NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

WILBUR F. DIVINE
PROFESSIONAL LAND SURVEYOR & MAPPER
LICENSE NO. 4190, STATE OF FLORIDA

DATE: 09-13-12

NOTE: THIS IS NOT A SKETCH OF SURVEY, BUT ONLY A GRAPHIC DEPICTION OF THE DESCRIPTION SHOWN HEREON. THERE HAS BEEN NO FIELD WORK, VIEWING OF THE SUBJECT PROPERY, OR MONUMENTS SET IN CONNECTION WITH THE PREPARATION OF THE INFORMATION SHOWN HEREON.

NOTE: LANDS SHOWN HEREON WERE NOT ABSTRACTED FOR RESTRICTIONS, RIGHTS-OF-WAY AND EASEMENTS OF RECORD.

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West Palm Beach, Florida 33411
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www.arcadis-us.com

PROJECT MANAGER	DEPARTMENT MANAGER	SCALE:	CHECKED BY
WFD	RWL		WFD
SHEET TITLE: SKETCH AND DESCRIPTION DRAINAGE EASEMENT		DATE: 09-13-12	DRAWN BY JAF
		PROJECT NUMBER WF0400400	DRAWING NUMBER WF040400SD03

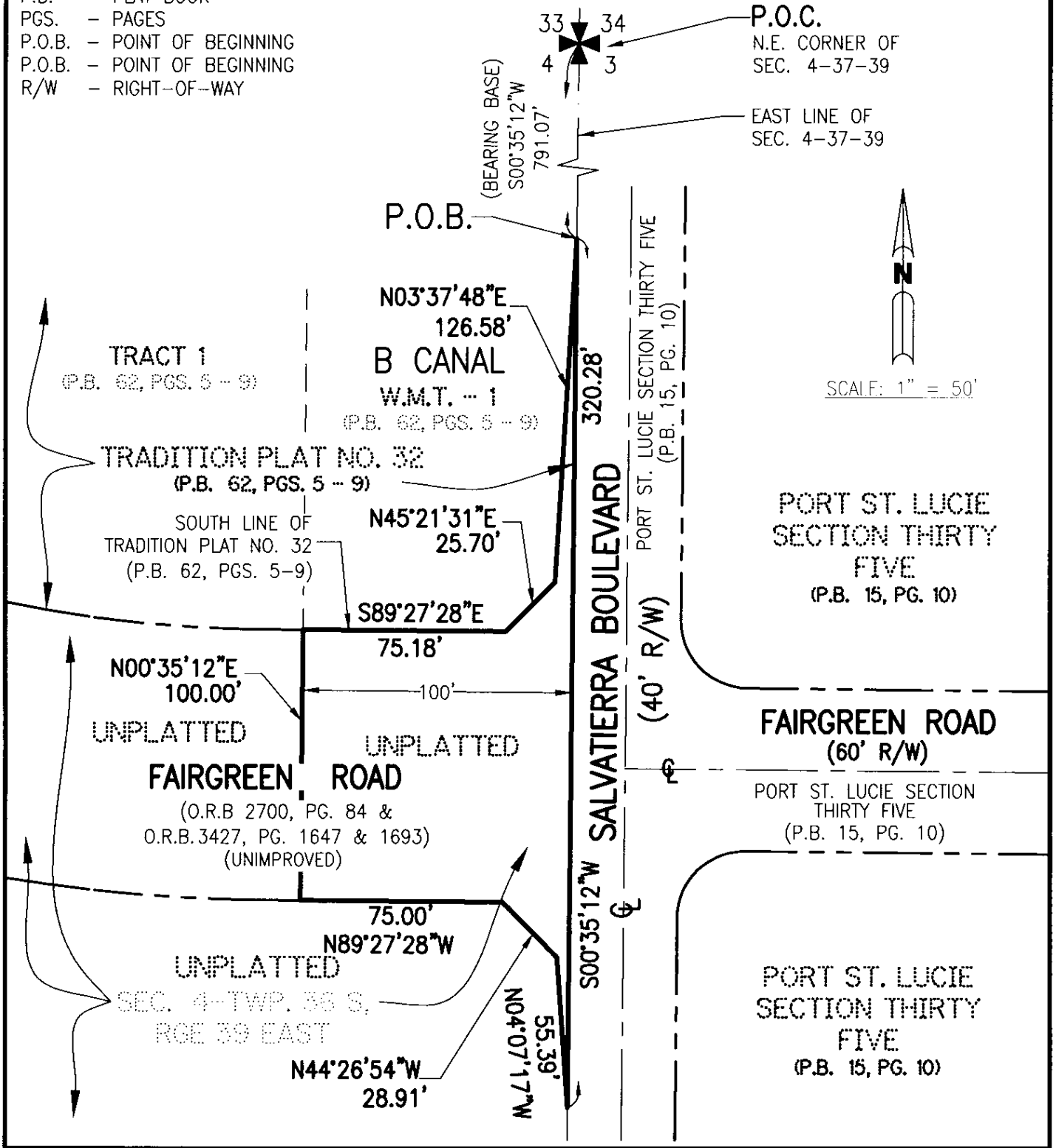
SHEET 1 OF 2

EXHIBIT "A"

SKETCH TO ACCOMPANY DESCRIPTION.
THIS IS NOT A SURVEY!

LEGEND:

- ℄ – CENTERLINE
- O.R.B. – OFFICIAL RECORDS BOOK
- P.B. – PLAT BOOK
- PGS. – PAGES
- P.O.B. – POINT OF BEGINNING
- P.O.B. – POINT OF BEGINNING
- R/W – RIGHT-OF-WAY



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West Palm Beach, Florida 33411
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PROJECT MANAGER WFD	DEPARTMENT MANAGER RWL	SCALE: 1" = 50'	CHECKED BY WFD
SHEET TITLE SKETCH AND DESCRIPTION DRAINAGE EASEMENT		DATE: 09-13-12	DRAWN BY JAF
		PROJECT NUMBER WF040400	DRAWING NUMBER WF040400SD03
SHEET 2 OF 2			

CITY OF PORT ST. LUCIE

Engineering Department

Accredited Agency – American Public Works Association

"A City for All Ages"

MEMORANDUM

TO: GREGORY J. ORAVEC – CITY MANAGER

FROM: PATRICIA ROEBLING, P.E. CITY ENGINEER

DATE: SEPTEMBER 25, 2012

RE: CONVEYANCE OF NON-EXCLUSIVE DRAINAGE EASEMENT TO TRADITION COMMUNITY DEVELOPMENT DISTRICT NO. 1, AND AUTHORIZATION ORDINANCE

Attached for review and approval by the City Council of the City of Port St. Lucie is an ordinance authorizing the conveyance of a non-exclusive drainage easement to Tradition Community Development District No. 1 ("Tradition CDD No. 1"). The purpose of the easement is to assure Tradition CDD No. 1 an unobstructed flow of stormwater from Tradition through Fairgreen Road right-of-way at the Borrow Canal. This non-exclusive drainage easement will allow Tradition CDD No. 1 to construct, operate, maintain, repair, reconstruct and perform other activities as may be needed for drainage and conveyance of stormwater. The attached easement has been reviewed by Azlina Goldstein Siegel, Assistant City Attorney, for conformity with the City's standards.

Please place this matter on the appropriate City Council agendas for first and second readings. If you have any questions, please do not hesitate to contact me.

PR/cc

Attachments: Ordinance 12-_____
Proposed Non-Exclusive Drainage Easement

cc: James Angstadt, P.E. – Acting Assistant City Engineer
Roxanne Chesser, P.E. – Civil Engineer

S:\projects\Fairgreen\12-09-24 MEM to CMO Ordinance Re Conveyance of Drainage Esmt to Tradition CDD No 1.doc

RECEIVED

SEP 26 2012

City Manager's Office

RECEIVED
SEP 18 2012
ENGINEERING

MEMORANDUM

TO: PATRICIA ROEBLING, P.E., CITY ENGINEER

FROM: AZLINA GOLDSTEIN SIEGEL, ASSISTANT CITY ATTORNEY AGS

DATE: SEPTEMBER 17, 2012

SUBJECT: CONVEYANCE OF NON-EXCLUSIVE DRAINAGE EASEMENT TO TRADITION COMMUNITY DEVELOPMENT DISTRICT NO. 1, AND AUTHORIZATION ORDINANCE

Pursuant to your Department's request, I have reviewed the drainage easement document that was prepared by Daniel B. Harrell, Esq., legal counsel for the party requesting the easement, which is the Tradition Community Development District No. 1, formerly known as Westchester Community Development District No. 1, a local unit of special purpose government organized and existing in accordance with Chapter 190, Florida Statutes ("Tradition CDD No. 1"). Tradition CDD No. 1 is seeking a perpetual drainage easement over those certain lands it recently quit claimed to the City for the Fairgreen Road Extension Project to assure that an unobstructed flow of stormwater is managed and controlled for the planned community known as "Tradition." The requested easement shall serve to allow Tradition CDD No. 1 to construct, operate, maintain, repair, reconstruct, and perform other activities as may be necessary for the conveyance of stormwater and other drainage purposes.

To effectuate the proposed conveyance of the requested drainage easement to the Tradition CDD No. 1, I have prepared the attached ordinance authorizing said conveyance. The Drainage Easement instrument is attached to the proposed ordinance as Exhibit "A." Once the ordinance is approved by City Council at the second reading, you will need to have a "clean" copy of the Drainage Easement printed, executed, and delivered to Tradition CDD No. 1 so that either Tradition CDD No. 1, its consultant, or legal counsel can take it for recording in the Public Records of St. Lucie County.

If you have any questions, please do not hesitate to contact me.

AGS/bb
Attachments: Ordinance 12-_____ with Exhibit

cc: James Angstadt, Acting Assistant City Engineer
Clyde Cuffy, Project Coordinator